

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ALBERT JOSEPH ROBUS,

Petitioner,

v.

COMMONWEALTH OF
PENNSYLVANIA,

Respondent.

Civil Action No. 06-260 Erie

MEMORANDUM ORDER

These proceedings were commenced on November 7, 2006 when Petitioner filed a document styled as a writ of mandamus and petition for emergency relief [1]. This pleading was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. Petitioner subsequently amended his petition on December 6, 2006 [5].

The Chief Magistrate Judge's Report and Recommendation, filed on October 9, 2007 [32], construed Petitioner's pleading as a petition for writ of habeas corpus relief pursuant to 28 U.S.C. § 2254 and recommended that the petition be dismissed as moot and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Albion, his last address of record, and on Respondents. Petitioner has filed no objections to Chief Magistrate Judge Baxter's Report and Recommendation. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 6th day of November, 2007;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus, as amended, be and hereby is DISMISSED as moot and that no certificate of appealability

shall issue.

The Report and Recommendation of Chief Magistrate Judge Baxter, filed on October 9, 2007 [32], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record
Susan Paradise Baxter, Chief U.S. Magistrate Judge